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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/655,252

09/05/2000

Lee Cannon

IGT1P480X2/AG00020-016

7732

79646

7590

09/08/2009

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EXAMINER

COBURN, CORBETT B

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: LEE CANNON et al.

Appeal No. 2009-006339
Application 09/655,252
Technology Center 3700

Mailed: September 8, 2009

Before DALE M. SHAW *Chief Appeals Administrator.*

ORDER REMANDING TO EXAMINER

On March 17, 2009, this application was electronically received by the Board of Patent Appeals and Interferences. On April 1, 2009, Appeal No. 2009-006339 was assigned to said application and a Docketing Notice was mailed on April 1, 2009.

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are outstanding for the following pending claims: 48-50, 54, 55, 57-84 and 90-126. The rejected claims that have not been appealed and/or argued for appeal are claims 85, 87 and 88.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 7, Sept 2008).

CONCLUSION

Accordingly, it is

ORDERED that this application be returned to the Examiner to:

- 1) provide a “paper” (PTOL-90) canceling claims 85, 87 and 88;
- 2) upon entry of the paper, to return the application to the Board for the consideration of appealed claims; and
- 3) for such further action as may be appropriate.

Appeal No. 2009-006339
Application No. 09/655,252

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

DS/tkl

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